

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

88.

OA 569/2023 WITH MA 3043/2023

Sub Om Prakash Tiwari	...	Applicant
Versus		
Union of India & Ors.	...	Respondents

For Applicant : Mr. Nawneet Kr. Mishra, Advocate
For Respondents : Mr. K.K. Tyagi, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER
13.12.2023

MA 3043/2023

Counter affidavit has been filed. There being some delay in filing the counter affidavit, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record. MA stand stands disposed of.

OA 3065/2022

2. Invoking the jurisdiction of this Tribunal under Section 14, of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and the reliefs claimed in para 8 read as under:

(a) *To quash and set aside the RMB proceedings and impugned order to the extent they deny the grant of disability element of pension to the applicant.*

(b) *To direct the respondents to grant the disability element of pension @ 3% broad banded to 50% with interest @ 12% p.a. w.e.f date of discharge, by treating the*

disabilities as attributable to and/or aggravated by military service.

3. The applicant was enrolled in the Indian Army on 28.12.1991 and discharged from Service on 31.12.2021. The applicant submits that for the purpose of **Primary Hypertension**, the disability has been assessed @ 30% as is evident from the medical records. The composite disability for the ailment has been assessed at 30%.

4. Keeping in view the consistent stand taken by this Tribunal based on the law laid down by the Hon'ble Supreme Court in the case of Dharamvir Singh Vs. Union of India and others (2013) 7 SCC 316 that Primary Hypertension may arise even in a peace area due to stress and strain of service, we see no reason not to allow the prayer of the applicant with regard to the disability Primary Hypertension, which has been assessed by the competent Medical Board @ 30%.

5. Accordingly, we allow this application and direct the respondents to grant disability element of pension to the applicant @ 30% for life which be rounded off to 50% for life from the date of retirement i.e., 31.12.2021 in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012) decided on 10.12.2014.

6. Accordingly, the respondents are directed to calculate, sanction and issue necessary PPO to the applicant within four months from the date of receipt of copy of this order, failing which, the applicant shall be entitled to interest @ 6% per annum till the date of payment.
7. No order as to costs.
8. Pending miscellaneous application, if any, stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C. P. MOHANTY]
MEMBER (A)

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